

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATALIE JOHNSON,

Plaintiff,

v.

ORDER

19-cv-760-wmc

C.R. BARD INC. and
BARD PERIPHERAL VASCULAR INC.,

Defendants.

Before the court is the parties' request for ruling on objections to certain deposition designations as to Michael Randall.

January 18, 2017, Deposition:

DEPON- ENT	PL AFFIRM	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 01/18/2017	19:15-19:25	Incomplete question and no answer designated.	Plain[t]iff will include 19:17-19:25, as indicated.	MOOT, also ADD 19:14.
Randall, Mike 01/18/2017	20:06-20:09	Partial answer without a question.	Plaintiff will include 20:06-20:09 as indicated	MOOT
Randall, Mike 01/18/2017	20:09			
Randall, Mike 01/18/2017	22:04-22:06 Starting at "What"			
Randall, Mike 01/18/2017	22:07-22:10 Starting at "the initial"			
Randall, Mike 01/18/2017	22:14-22:19	Counters are necessary for completeness.	Plaintiff added line 19 to accommodate defendant's optional completeness request.	MOOT (counters have been included)

Randall, Mike 01/18/2017	23:16-23:24			
Randall, Mike 01/18/2017	24:02-24:05			
Randall, Mike 01/18/2017	24:08-24:11			
Randall, Mike 01/18/2017	25:08-25:17 Starting at "And"			
Randall, Mike 01/18/2017	35:07-35:09			
Randall, Mike 01/18/2017	35:21-35:25 Starting at "Tell"			
Randall, Mike 01/18/2017	37:17-38:11 Starting at "So"	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	39:18-39:25 Starting at "under"	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	40:01-40:04 Starting at "And"	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	40:11-40:15 Starting at "And"	Incomplete answer. Remainder of 40:15 needs to be included. Moreover, no question is being asked. Counsel is merely reading the document and asking witness to confirm that he is reading it correctly.	Plaintiff will complete the response on 40:15.	MOOT as to 40:15. OVERRULED as to remainder.
Randall, Mike 01/18/2017	47:09-47:13 Starting "And"			
Randall, Mike 01/18/2017	47:15			
Randall, Mike 01/18/2017	47:18	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)

Randall, Mike 01/18/2017	48:09-48:22	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	49:07-49:11 Starting at "So"	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	49:13-49:14			
Randall, Mike 01/18/2017	49:17-49:20	counters on page 50 are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	51:08-51:09	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	51:19-51:25 Starting at "this"	counters are necessary for completeness and to put question in context.		MOOT (counters have been included)
Randall, Mike 01/18/2017	53:15-53:20 Starting at "there"			
Randall, Mike 01/18/2017	56:22-57:04 Starting at "there's"			
Randall, Mike 01/18/2017	57:08	Incomplete answer - entire answer is lines 5-11. Complete answer should be played.		SUSTAIN; ADD entire answer from 57:5-57:11.
Randall, Mike 01/18/2017	60:24-61:16	Counters on page 60 are necessary for completeness.	Plaintiff added line 60:24-61:01 to accommodate defendant's optional completeness request.	MOOT
Randall, Mike 01/18/2017	66:17			
Randall, Mike 01/18/2017	70:02-70:05 Starting at "Bard"			
Randall, Mike 01/18/2017	70:23-70:25			
Randall, Mike 01/18/2017	71:20-71:22			

Randall, Mike 01/18/2017	71:24			
Randall, Mike 01/18/2017	72:01-72:11			
Randall, Mike 01/18/2017	82:17-82:20	This testimony assumes facts not in evidence.		OVERRULED
Randall, Mike 01/18/2017	83:05-83:22			
Randall, Mike 01/18/2017	86:22-87:08			
Randall, Mike 01/18/2017	87:11-87:18	Objection. This testimony mischaracterizes the document and assumes facts not in evidence.	FRCP 32(6) and FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not designated any specific testimony to include nor demonstrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	OVERRULED
Randall, Mike 01/18/2017	88:21-89:07	Objection. This testimony mischaracterizes the document and assumes facts not in evidence.	FRCP 32(6) and FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not designated any specific testimony to include nor demonstrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	OVERRULED except STRIKE 89:1.
Randall, Mike 01/18/2017	93:11-94:01	Objection. This testimony, 93:21-94:1 was mischaracterizes the document. Also, asked and answered.	The plaintiff does not und[e]rstand the objection. The testi[]mony is relevant and is not unnecessarily	SUSTAIN

			cumulative of any prior testimony.	
Randall, Mike 01/18/2017	100:17-100:22			
Randall, Mike 01/18/2017	102:01-103:03			
Randall, Mike 01/18/2017	125:04-125:11			
Randall, Mike 01/18/2017	126:22-127:06			
Randall, Mike 01/18/2017	128:14-128:17			
Randall, Mike 01/18/2017	129:01-129:04 start at "Wouldn't that"	Starts in the middle of a question. Vague and ambiguous.	Plaintiff has clarified the start of the question as indicated.	MOOT
Randall, Mike 01/18/2017	129:05-129:22	Objection - incomplete answer. This starts answer in the middle of the answer. Lines 5-8 are necessary for completeness and so the answer is not out of context. Counters at 129:23-130:17 are necessary for completeness.	No objection has been stated. The added lines have been Included as optional completeness to the Plaintiff's offer on direct.	MOOT as to lines 5-8 as plaintiff has included them; MOOT as to 129:23-130:17 as the counters have been included.
Randall, Mike 01/18/2017	130:18-130:24	Counters at 131-132 are necessary f[or] completeness and will not make sense out of context.	FRCP 32(6) and FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demonstrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	MOOT (counters have been included)

Randall, Mike 01/18/2017	145:23- 146:06			
Randall, Mike 01/18/2017	181:15- 182:03 Start at "if" and end at "it"	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. Moreover, Rule 407, subsequent remedial measure. Incomplete answer - the entire answer is necessary or it is out of context and an attempt at creating sound bites.	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with the Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The added lines have been included as optional completeness to the Plaintiff's offer on direct.	OVERRULE as to 401, 402, and 403 objections. RESERVE as to 407 objection.
Randall, Mike 01/18/2017	182:06:182: 23 Start at "so:"	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. Moreover, Rule 407, subsequent remedial measure. Incomplete answer - the entire answer is necessary or it is out of context and an attempt at creating sound bites.	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with the Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The added lines have been included as optional completeness to the Plaintiff's offer on direct.	OVERRULE as to 401, 402, and 403 objections. RESERVE as to 407 objection.
Randall, Mike 01/18/2017	182:14- 182:23 Starting at "We"	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. Moreover, Rule 407, subsequent remedial measure.	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with the Meridian filter. Also shows that Bard knew there was issue with their current line of filters.	OVERRULE as to 401, 402, and 403 objections. RESERVE as to 407 objection.
Randall, Mike 01/18/2017	183:07- 183:12	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. Moreover, Rule	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with the Meridian filter. Also shows that Bard knew there was issue with their current line of filters.	OVERRULE as to 401, 402, and 403 objections. RESERVE as to 407 objection.

		407, subsequent remedial measure.		
DEPONENT	DEF COUNTER	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 01/18/2017		Unless specifically stated otherwise for purposes of optional completeness, Plaintiff is not agreeing to insert any of the Defendants' counter designations into her presentation of the witness' testimony. The lack of specifi[c] obj[e]ction simply means the [p]laintiff doe[s]not object to the[]Defendants offer of that testimony[]y []as cross/counter offer.		RESERVE to extent also using 10/3/2018 trial deposition. Otherwise, OVERRULED. As the court already ruled, counter designations are to appear in the initial video, and <i>not</i> as a separate video to be played afterwards. Thus, to the extent allowed, defendants' counter-designations are to appear in plaintiff's presentation of Randall's testimony.
Randall, Mike 01/18/2017	22:18-23:06 (starting at "and")	Plaintiff added line 19 to accom[m]odate defendant's optional completeness. NO objection to defendants['] designation of 22:20-23:06		MOOT
Randall, Mike 01/18/2017	24:12-25:07			

Randall, Mike 01/18/2017	36:10			STRIKE
Randall, Mike 01/18/2017	36:20-36:23 (starting at "Is")			
Randall, Mike 01/18/2017	37:13-37:17 (starting at "this") (ending at "anyway")	FRE 401, 402 & 403 - 37:15 - 37:17 ending at "anyway" is a sidebar comment by couns[el] and is not a question or testimony. It is not relevant and could have the potential to confuse or mislead. It is unfairly prejudicial.		OVERRULED
Randall, Mike 01/18/2017	39:25 ("That's what it says here.")	Plaintiff added the rest of 30:25 to accommodate defendant's optional completeness request.		MOOT
Randall, Mike 01/18/2017	40:04 "That's what it says here "	Plaintiff added the rest of 40:04 to accommodate defendant's optional completeness request.		MOOT
Randall, Mike 01/18/2017	40:06 ("of all vena cava filters")	Plaintiff added the rest of 40:06 to accommodate defendant's optional completeness request.		MOOT
Randall, Mike 01/18/2017	40:07-40:10 (starting at "And then")			
Randall, Mike 01/18/2017	40:15 ("that's what it says")	Plaintiff added the rest of 40:15 to accommodate defendant's optional completeness request.		MOOT
Randall, Mike 01/18/2017	47:20-47:21	FRE: 401,402 & 403. The requested testimony is non re[s]po[]nsive [to] the question asked. An objection was made at the time of the deposition.		OVERRULED
Randall, Mike 01/18/2017	47:24-48:08			
Randall, Mike 01/18/2017	48:23-49:06			

Randall, Mike 01/18/2017	50:02-50:18			
Randall, Mike 01/18/2017	51:10-51:19 (ending at "and")	FRE 401, 402 - The offered testimony is not relevant and is not responsive to the question asked. Fairness does not require its inclusion under optional completeness.	The testimony is necessary to explain the document and avoid a soundbite without proper context.	OVERRULED
Randall, Mike 01/18/2017	52:03-52:07	FRE 401, 402 , 403 & 602 - The testimony is not relevant and consists of the witness speculating as to whether additional document may exist with out such a question pending. The witness admits "I'm not sure". The testimony is likely to confuse or mislead and is unfairly prejudicial.	The testimony is necessary to explain the document and avoid a soundbite without proper context. The witness was handed a document that is a draft or not complete and is entitled to explain that.	OVERRULED
Randall, Mike 01/18/2017	57:09-57:11	FRE 401, 402 , 403, 405 & 802 - The testimony is not relevant and consists of the witness testifying that unidentified third parties have compliment the design of the Bard filter. The testimony is offered for the truth of the matter asserted and to bolster the reputation of the company. The testimony is likely to confuse or mislead and is unfairly prejudicial.	Plaintiff chooses to only play the part of the answer rather than the entire answer. No objection to the responsiveness of the question was made at the time.	OVERRULED
Randall, Mike 01/18/2017	60:24-61:01 (starting at "the way") (ending at "that")	Plaintiff added line 60:24 -61:01 to accommodate defendant's optional completeness request.	The entire answer needs to include all of line 61:1	MOOT
Randall, Mike 01/18/2017	70:15-70:16	FRE 401, 402 & 403 - The offered testimony is not relevant and the offered testimony is answer to a question that was not included and taken completely out of	The question and answer are directly relevant to the issues in this case about the Meridian filter. The witness directly answers the question.	OVERRULED. Also, ADD 70:06-70:22.

		context. is not responsive to the question asked. Fairness does not require its inclusion under optional completeness. The testimony is likely to confuse or mislead and is unfairly prejudicial.		
Randall, Mike 01/18/2017	71:04-71:12			
Randall, Mike 01/18/2017	71:15-71:16			
Randall, Mike 01/18/2018	87:19-87:24			
Randall, Mike 01/18/2019	88:01-88:02			
Randall, Mike 01/18/2020	88:06-88:12			
Randall, Mike 01/18/2021	88:14-88:20			
Randall, Mike 01/18/2022	89:08-89:20			
Randall, Mike 01/18/2023	89:23-89:24 (starting at "yeah")			
Randall, Mike 01/18/2024	90:02-90:15			
Randall, Mike 01/18/2025	90:17-90:19			
Randall, Mike 01/18/2026	92:05-92:06			
Randall, Mike 01/18/2027	92:08-92:10			

Randall, Mike 01/18/2028	92:12-92:14			
Randall, Mike 01/18/2029	92:17-93:08			
Randall, Mike 01/18/2029	94:02-94:06			
Randall, Mike 01/18/2030	100:23- 101:21			
Randall, Mike 01/18/2031	101:24- 101:25			
Randall, Mike 01/18/2032	105:05- 105:07			
Randall, Mike 01/18/2033	105:13- 105:17 (starting at "looking") (ending with "filter.")			
Randall, Mike 01/18/2034	107:20- 107:24 (starting with "If")			
Randall, Mike 01/18/2035	108:03 ("I think it's 150")			
Randall, Mike 01/18/2036	111:04- 111:08 (ending with "model,")			
Randall, Mike 01/18/2037	111:11- 112:04 (ending with "too")			
Randall, Mike 01/18/2038	112:15- 112:16 (starting with "the")			

Randall, Mike 01/18/2039	112:18			
Randall, Mike 01/18/2040	112:20- 112:21			
Randall, Mike 01/18/2041	116:01- 116:08 (starting with "you")			
Randall, Mike 01/18/2042	116:19- 116:20 (starting with "the")			
Randall, Mike 01/18/2017	129:05- 129:08	The added lines have been Included as optional completeness to Plaintiffs offer on direct.		MOOT
Randall, Mike 01/18/2017	129:23- 130:17	Expert testimony by a lay witness. Mr. Randall admits in the designation that he is not an expert in endurance testing or limits.	Witness' statement that he is not an expert in endurance limits does not mean that he is attempting to improperly proffer expert testimony and cannot testify regarding testing that Bard performed. Witness indicated that his testimony is from his experience in the industry, and what is well known in the industry. This is not expert opinion, but testimony from a lay witness.	OVERRULED
Randall, Mike 01/18/2017	131:05- 132:09	Expert testimony by a lay witness. Mr. Randall admits in the designation that he is not an expert in endurance testing or limits.	Witness' statement that he is not an expert in endurance limits does not mean that he is attempting to improperly proffer expert testimony and cannot testify regarding testing that Bard performed. Witness indicated that his testimony is from his experience in the industry, and what is well known in the industry.	OVERRULED

			This is not expert opinion, but testimony from a lay witness.	
Randall, Mike 01/18/2043	162:24-163:04 (starting with "this")			
Randall, Mike 01/18/2044	163:07-163:10			
Randall, Mike 01/18/2045	165:09-165:14 (starting at "this")			
Randall, Mike 01/18/2046	166:11-166:15 (staring at "I think")			
Randall, Mike 01/18/2017	181:20-182:06 (starting with "and with") (ending with "so")	FRE 401, 402, 403, 801(a) & 802 -The offered testimony at 182:03-182:06 - is hearsay. It is a reference to on verbal conduct as to what other companies do that is intended to prove the truth of the matter asserted. The referenced conduct is not relevant and it likely to confuse or mislead and is unfairly prejudicial. Plaintiff cannot cross examine "other companies" about the referenced conduct. Plaintiff has added 182:03-182:06 and 182:11-182:14 to her direct to accommodate Bard's optional completeness request.	There is no hearsay in his answer. The witness is explaining how the testing process works with later generations of filters. This is directly relevant to Plaintiff's claims in this case.	MOOT as to 181:20-182:03. OVERRULED as to 182:03-182:06. In other words, 181:20-182:06 is to be included in its entirety.
Randall, Mike 01/18/2017	182:11-182:14 (beginning with "so")	Plaintiff has added 182:03-182:06 and 182:11-182:14 to her direct to accommodate		MOOT

	(ending with "platform")	Bard's optional completeness request.		
DEPONENT	PL COUNTERS TO COUNTERS	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
	NONE			
DEPONENT	DEF AFFIRM	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 01/18/2017		Plaintiff Objects to the use of formal trial testimony of Mike Randall under FRE 801(c) and FRE 804		Address availability, duplication, and participation of plaintiff's counsel.
Randall, Mike 01/18/2017	13:19-14:24 begin at Why			
Randall, Mike 01/18/2017	19:14-19:22 Begin at You			
Randall, Mike 01/18/2017	20:09			
Randall, Mike 01/18/2017	22:04-22:10 begin at What	FRE: 403- Cumulative- the testimony has been presented in Plaintiffs's direct examination of this witness.		OVERRULED
Randall, Mike 01/18/2017	22:20-23:14	FRE: 403- Cumulative- the testimony has been presented in Plaintiffs's direct examination of this witness.		OVERRULED
Randall, Mike 01/18/2017	38:23-39:03	FRE 611 - The testimony is outside the scope of the cross examination.		OVERRULED
Randall, Mike 01/18/2017	40:01-40:04	Hearsay FRE: 403- Cumulative- the testimony has been presented in Plaintiffs's direct	The witness is reading from a regularly kept business record of Bard that was presented to	OVERRULED

		examination of this witness.	him as an exhibit by Plaintiff's counsel	
Randall, Mike 01/18/2017	40:06			
Randall, Mike 01/18/2017	60:24-61:03 begin at the way	Lack of foundation. FRE: 403- Cumulative- the testimony has been presented in Plaintiffs's direct examination of this witness.	The question lays the foundation.	OVERRULED
Randall, Mike 01/18/2017	61:05-61:25	FRE: 403- Cumulative- the testimony has been presented in Plaintiffs's direct examination of this witness.		OVERRULED
Randall, Mike 01/18/2017	152:20 begin at the Meridian			
Randall, Mike 01/18/2017	152:23 begin at August			
Randall, Mike 01/18/2017	153:05-153:16	Lack of foundation, hearsay,	-The witness is stating why the company took action. Rule 803(3)	SUSTAIN
Randall, Mike 01/18/2017	178:09-178:12 begin at The Meridian			
Randall, Mike 01/18/2017	178:24-178:25			
DEPON-ENT	PL COUNTERS	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 01/18/2017	38:06-38:11 starting with "So essentially"			
Randall, Mike 01/18/2017	74:08-74:12	This is not a counter to any testimony designated by Defendants.		OVERRULED

February 2, 2017, Deposition:

DEPON- ENT	PL AFFIRM	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 02/02/2017	7:04-7:08			
Randall, Mike 02/02/2017	7:12-7:17	Mr. Randall is no longer with Bard.	He was "currently" the director of research and development when the deposition was taken. His title and position are relevant to his testimony and go to bais and credilblity.	OVERRULED
Randall, Mike 02/02/2017	10:01-10:13			
Randall, Mike 02/02/2017	11:04-11:10			
Randall, Mike 02/02/2017	12:03-12:07 begin at Are there			
Randall, Mike 02/02/2017	25:03-25:20			
Randall, Mike 02/02/2017	45:11-45:15			
Randall, Mike 02/02/2017	47:24-48:06			
Randall, Mike 02/02/2017	48:08-48:10			
Randall, Mike 02/02/2017	72:21-72:22			

Randall, Mike 02/02/2017	72:24-73:13	Counters at 73-74 are necessary for completeness and will not make ssense out of context.	FRCP 32(6) and FRE 106 only requires completeness that "in fairness ought to be considered at the same time". Defendants have not demonstrated why this testimony, in the name of fairness, must be considered at the same time as Plaintiff's designation.	MOOT (counters have been included)
Randall, Mike 02/02/2017	86:13-86:20 begin at Would you			
Randall, Mike 02/02/2017	88:06-88:14 begin at would you end at by Bard			
Randall, Mike 02/02/2017	88:20-88:24			
Randall, Mike 02/02/2017	89:01-89:05			
Randall, Mike 02/02/2017	89:09-89:16			
Randall, Mike 02/02/2017	93:16-93:19 begin at One of the			
Randall, Mike 02/02/2017	94:15-94:17	Rules 401, 402, 403 – Testimony does not involve filter at issue and/or failure mode at issue; Irrelevant and any probative value outweighed by prejudicial effect. There is no	Migration is at issue in this case as Ms. Johnson's filter migrated and fractured. The fractured piece embolized to her right ventricle. The line of questions is about all filters that Bard has	OVERRULED

		evidence of migration to the heart in this case	developed, manufactured and sold. See 92:3-92:8	
Randall, Mike 02/02/2017	94:19-94:25			
Randall, Mike 02/02/2017	95:20-95:24			
Randall, Mike 02/02/2017	95:25-96:02 begin at Would you			
Randall, Mike 02/02/2017	96:04-96:05	Objection - mischaracterizes the testimony - full answer in lines 4-5	Plaintiff will include the entire response as indicated.	MOOT
Randall, Mike 02/02/2017	99:11-99:13			
Randall, Mike 02/02/2017	99:20-100:06			
Randall, Mike 02/02/2017	103:01-103:06	Rule 401, 402 and 403. There is no evidence of migration more than 5 mm in this case. Rules 801/802 hearsay	Migration is at issue in this case as Ms. Johnson's filter migrated and fractured. The fractured piece embolized to her right ventricle. The line of questions is about all filters that Bard has developed, manufactured and sold. See 92:3-92:8	OVERRULED
Randall, Mike 02/02/2017	105:06-105:12	Rule 401, 402 and 403. There is no evidence of migration more than 5 mm in this case. Rules 801/802 hearsay	Migration is at issue in this case as Ms. Johnson's filter migrated and fractured. The fractured piece embolized to her right	OVERRULED

			ventricle. The line of questions is about all filters that Bard has developed, manufactured and sold. See 92:3-92:9	
Randall, Mike 02/02/2017	105:14-105:18	Rule 401, 402 and 403. There is no evidence of migration more than 5 mm in this case. Rules 801/802 hearsay	Migration is at issue in this case as Ms. Johnson's filter migrated and fractured. The fractured piece embolized to her right ventricle. The line of questions is about all filters that Bard has developed, manufactured and sold. See 92:3-92:10	OVERRULED
Randall, Mike 02/02/2017	112:15-112:19 begin at So the	Rule 401, 402 and 403. There is no evidence of migration more than 5 mm in this case. Rules 801/802 hearsay	Migration is at issue in this case as Ms. Johnson's filter migrated and fractured. The fractured piece embolized to her right ventricle. The line of questions is about all filters that Bard has developed, manufactured and sold. See 92:3-92:11	OVERRULED
Randall, Mike 02/02/2017	114:23-115:10	Rule 401, 402 and 403. There is no evidence of migration more than 5 mm in this case. Rules 801/802 hearsay	Migration is at issue in this case as Ms. Johnson's filter migrated and fractured. The fractured piece embolized to her right ventricle. The line of questions is about all filters that Bard has developed, manufactured and sold. See 92:3-92:12	OVERRULED

Randall, Mike 02/02/2017	115:15-115:22 begin at I've	Rule 401, 402 and 403. There is no evidence of migration more than 5 mm in this case. Rules 801/802 hearsay	Migration is at issue in this case as Ms. Johnson's filter migrated and fractured. The fractured piece embolized to her right ventricle. The line of questions is about all filters that Bard has developed, manufactured and sold. See 92:3-92:13	OVERRULED
Randall, Mike 02/02/2017	204:09-204:23 begin at Mr. Randall	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407 and OVERRULED as to all other objections.
Randall, Mike 02/02/2017	205:15-205:25 begin at And what	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE
Randall, Mike 02/02/2017	206:13-206:23 begin at This Idea	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew	RESERVE

		knowledge of the document. See 205: 2-3	there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	
Randall, Mike 02/02/2017	207:07-207:08	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	207:10-207:11	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	207:16-207:24	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what	SUSTAIN as to 207:16-207:24. RESERVE as to 407, and OVERRULE as to all other objections

			this document was at 205:15-205:25.	
Randall, Mike 02/02/2017	209:17-210:25 begin at the complications	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN as to 210:22-210:25, RESERVE as to 407, and OVERRIDE as to all other objections
Randall, Mike 02/02/2017	211:17-212:07 begin at So you're	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	212:11-212:17	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN

Randall, Mike 02/02/2017	215:17-215:24 begin at But my point	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	216:02-216:04	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	216:06-216:10	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	217:03-217:08 begin at So at the time	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also	RESERVE as to 407, otherwise OVERRULED

		witness has personal knowledge of the document. See 205: 2-3	shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	
Randall, Mike 02/02/2017	219:11-219:24 begin at I want to	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	220:18-220:21	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	220:23-220:25	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what	RESERVE as to 407, otherwise OVERRULED

			this document was at 205:15-205:25.	
Randall, Mike 02/02/2017	221:10-221:12	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	225:24-226:08 begin at But if it's	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	OVERRULED
Randall, Mike 02/02/2017	227:17-227:20 begin at and that is	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	OVERRULED

Randall, Mike 02/02/2017	227:22-227:24	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	OVERRULED
Randall, Mike 02/02/2017	228:07-228:25 begin at The next	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	229:02-229:03	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	230:23-231:15 Starting at page	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also	SUSTAIN

		witness has personal knowledge of the document. See 205: 2-3	shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	
Randall, Mike 02/02/2017	232:03-232:10 begin at The next paragraph	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	233:14-234:01 begin at It says	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	234:03-234:04	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what	SUSTAIN

			this document was at 205:15-205:25.	
Randall, Mike 02/02/2017	235:20-235:23	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	235:25-236:01	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	236:17-236:25 begin at We will	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN

Randall, Mike 02/02/2017	237:10-237:15 begin at But in	Rule 401, 402 and 403. Does not involve the filter and/or failure modes at issue in this case. This case does not involve the Eclipse Filter. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	239:08-239:10 Starting at "And"			
Randall, Mike 02/02/2017	239:12-239:13 Ending at "know."			
Randall, Mike 02/02/2017	240:05-240:14	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	SUSTAIN
Randall, Mike 02/02/2017	242:12-242:25			
Randall, Mike 02/02/2017	243:02			
Randall, Mike 02/02/2017	244:15-244:25			

Randall, Mike 02/02/2017	245:15-245:21 end at Correct			
Randall, Mike 02/02/2017	246:09-246:20			
Randall, Mike 02/02/2017	247:02-247:05 begin at So the idea			
Randall, Mike 02/02/2017	247:17-247:21 begin at In terms of			
Randall, Mike 02/02/2017	248:19-248:22 begin at Penetration			
Randall, Mike 02/02/2017	249:23-250:25	Rule 901- Counsel is testifying.	FRE 611 - The attorney is asking leading questions of an employee of an adverse party.	OVERRULED
Randall, Mike 02/02/2017	251:24-252:03			
Randall, Mike 02/02/2017	252:05-252:13			
Randall, Mike 02/02/2017	260:25-261:01			
Randall, Mike 02/02/2017	261:03-261:10			
Randall, Mike 02/02/2017	261:12-261:18			

Randall, Mike 02/02/2017	261:20-261:22	Counters at 262 are necessary for completeness and to explain the document.	FRCP 32(6) and FRE 106 only requires completeness that "in fairness ought to be considered at the same time". The testimony designated by Bard is for an entirely new line of questioning and fairness does not require it be considered contemporaneously with the testimony offered by Plaintiff. The testimony can be played as cross.	MOOT (counters have been included)
Randall, Mike 02/02/2017	266:04-266:07	No question is being asked. Counsel is reading the document and asking the witness to confirm that she read it correctly.	FRE 611 - The attorney is asking leading questions of an employee of an adverse party. The question a foundational and establish a timeline for the development of the Meridian filter.	OVERRULED
Randall, Mike 02/02/2017	267:02-267:06 Starting at "So"			
Randall, Mike 02/02/2017	267:08-267:14			
Randall, Mike 02/02/2017	268:17-269:02 Starting at "the bottom"			
Randall, Mike 02/02/2017	269:04-269:08			
Randall, Mike 02/02/2017	269:19-269:23	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her	RESERVE as to 407, otherwise OVERRULED

		no indication that the witness has personal knowledge of the document. See 205: 2-3	Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	
Randall, Mike 02/02/2017	269:25-270:01	Rule 401, 402 and 403 and 407 This is about the Denali filter - a subsequent generation. Also Rule 601/602 and 612 - there is no indication that the witness has personal knowledge of the document. See 205: 2-3	The testimony shows that Bard knew ways to improve their filter long before Ms. Johnson was implanted with her Meridian filter. Also shows that Bard knew there was issue with their current line of filters. The witness explained exactly what this document was at 205:15-205:25.	RESERVE as to 407, otherwise OVERRULED
Randall, Mike 02/02/2017	275:04-275:09			
Randall, Mike 02/02/2017	275:15-275:19			
Randall, Mike 02/02/2017	292:20-292:22			
Randall, Mike 02/02/2017	293:07-293:12 Starting at "Were"			
Randall, Mike 02/02/2017	293:18-293:25 Starting at "I think"			
Randall, Mike 02/02/2017	294:13-295:03 begin at If you look	Rule 401, 402 and 403 - As trial in this case is bifurcated, Bard's revenue	Testimony explains why Bard kept a defective product on the market when they knew it was defective	OVERRULED

		is not at issue during this phase of trial.	and they knew how to address some of the defects.	
Randall, Mike 02/02/2017	296:05-296:17 begin at If Bard did	Rule 401, 402 and 403 - As trial in this case is bifurcated, Bard's revenue is not at issue during this phase of trial.	Testimony explains why Bard kept a defective product on the market when they knew it was defective and they knew how to address some of the defects.	OVERRULED
Randall, Mike 02/02/2017	297:18-297:24	Rule 401, 402 and 403 - As trial in this case is bifurcated, Bard's revenue is not at issue during this phase of trial.	Testimony explains why Bard kept a defective product on the market when they knew it was defective and they knew how to address some of the defects.	OVERRULED
DEPONENT	DEF COUNTER	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 02/02/2017	73:14-74:04			
Randall, Mike 02/02/2017	87:01-87:02			
Randall, Mike 02/02/2017	87:04-87:06			
Randall, Mike 02/02/2017	87:11-88:02			
Randall, Mike 02/02/2017	95:12-95:16 (starting at "So")			

Randall, Mike 02/02/2017	95:18-95:19			
Randall, Mike 02/02/2017	96:04 ("I believe hypothetically")			
Randall, Mike 02/02/2017	115:24-116:03 Subject to objection			
Randall, Mike 02/02/2017	116:05-116:20 Subject to objection			
Randall, Mike 02/02/2017	205:02-205:03 Subject to objection	Answer without a question	This designation provides necessary context that the document upon which Plaintiff's counsel's questions are based is an initial draft document, not a final document.	OVERRULED
Randall, Mike 02/02/2017	206:24-207:02 Subject to objection			
Randall, Mike 02/02/2017	225:08-225:11 Subject to objection			
Randall, Mike 02/02/2017	225:13-225:23 Subject to objection			
Randall, Mike 02/02/2017	226:11-226:14 Subject to objection			

Randall, Mike 02/02/2017	226:16-226:18 Subject to objection			
Randall, Mike 02/02/2017	239:13-239:14 (starting at "That's") (ending at "ago")			
Randall, Mike 02/02/2017	241:15-241:17 Subject to objection			
Randall, Mike 02/02/2017	241:19-242:05 Subject to objection			
Randall, Mike 02/02/2017	243:19-244:01 Subject to objection			
Randall, Mike 02/02/2017	262:02-262:04 Subject to objection			
Randall, Mike 02/02/2017	262:07-262:17 Subject to objection			
Randall, Mike 02/02/2017	262:23-263:05 Subject to objection			
Randall, Mike 02/02/2017	267:17-267:21			
Randall, Mike 02/02/2017	267:23-268:02			
Randall, Mike 02/02/2017	275:20-275:22	Speculation, lack of foundation, hearsay	Witness is designated as Bard's corporate representative for this deposition. It is not	OVERRULED

			speculation for Bard's corporate representative to testify about primary business goals. Nothing in this question identifies any purported out of court statement that could be considered hearsay.	
Randall, Mike 02/02/2017	275:24-276:19	Speculation, lack of foundation, hearsay	Witness is designated as Bard's corporate representative for this deposition. It is not speculation for Bard's corporate representative to testify about primary business goals and customer reactions to product change. Statements regarding customer preferences are not offered to prove the truth of the matters asserted.	OVERRULED

October 13, 2018, Trial Testimony:

DEPON-ENT	DEF AFFIRM	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 10/03/2018		Plaintiff Objects to the use of formal trial testimony of Mike Randall under FRE 801(c) and FRE 804. Plaintiff was not a party to the Hyde case and was not represented at the time the testimony was obtained. The Hyde plaintiff's were not Mrs. Johnson Predecessor in interest. The depositions taken in the course of the MDL were for the purpose of developing	Bard is prepared to address Mr. Randall's unavailability at trial and why Plaintiff's interests were adequately represented when the testimony was given before presenting it at trial. As to Plaintiff's claim that the filter in Hyde was not a Meridian, almost all of Plaintiff's designations relate to filters other	RESERVE as to availability and counter-designations from earlier depositions

		testimony for common benefit. Individual trial testimony was for the benefit of the parties involved not all Plaintiff's in the MDL. The Hyde case did not involve a Meridian filter and so not testimony related to that filter was developed at the trial.	than the Meridian. During the pretrial conference Plaintiff made it clear that she intends to offer substantial testimony about the prior filters that were on the market before the Meridian. Mr. Randall's testimony is relevant to put those designations in context, explain the design changes leading up to the Meridian and to refute Plaintiff's claims.	
Randall, Mike 10/03/2018	2716:03-2721:22	2716:14-2716:118: 403 2717:13-2717:24 - Relevance 2719:10-2720:12 - Lack of foundation. The foundation for this witness to testify to such matter has not been established. Mr. Randall is not a bio-medical engineer, he is not a medical doctor, he has offered no testimony regarding training or specialized knowledge in anatomy, physiology, hemodynamic, or fluid dynamics.	This is all information about the witness' work and education history and involvement with IVC filters. The objection was not raised at the time of the testimony.	SUSTAIN as to 2717:17-:24, and 2718:7-2719:9, otherwise OVERRULED
Randall, Mike 10/03/2018	2722:22-2723:08			
Randall, Mike 10/03/2018	2723:22-2724:12			

Randall, Mike 10/03/2018	2724:19– 2725:19	2725:8-2725:19 Lack of foundation. The foundation for this witness to testify to such matter has not been established. Mr. Randall is not a bio-medical engineer, he is not a medical doctor, he has offer no testimony regarding regarding training or specialized knowledge in anatomy, physiology, hemodynamic, or fluid dynamics. Additionally, Mr. Randall has not demonstrated that he is qualified to opine on filters from other manufacturers. Not properly disclosed and Plaintiff did not have proper notice that this witness would discuss filters from other manufacturers.	The witness is explaining a document he used, understood and relied on during his work at Bard on IVC filters. The objection was not made at the time of the testimony. Plaintiff's counsel was present at the time of the testimony and conducted the cross examination. Plaintiff's counsel was present at the time of the testimony and conducted the cross examination.	OVERRULED
Randall, Mike 10/03/2018	2726:13– 2726:17 starting at “This is the G2 type and ending at “inverted cone.”	2726:16-2726:17 - Mr. Randall has not demonstrated that he is qualified to opine of filter from other manufacturers. Not properly disclosed and Plaintiff did not have proper notice that this witness would discuss filters from other manufacturers.	He is simply explaining the shapes of filters that he has reviewed and examined during his career at Bard. Plaintiff's counsel was present at the time of the testimony and conducted the cross examination.	RESERVE
Randall, Mike 10/03/2018	2726:20– 2727:14	2725:8-2725:19 Lack of foundation. The foundation for this witness to testify to such matter has not been established. Mr. Randall is not a bio-medical engineer, he is not a medical doctor, he has offer no testimony regarding regarding training or specialized knowledge in anatomy, physiology, hemodynamic, or fluid dynamics. Additionally, Mr.	Again, Mr. Randall is explaining information he knows, learned while working on IVC filters and used during the course of his employment. Plaintiff's counsel was present at the time of the testimony and conducted the cross examination. No objection was made	RESERVE

		Randall has not demonstrated that he is qualified to opine on filters from other manufacturers. Not properly disclosed and Plaintiff did not have proper notice that this witness would discuss filters from other manufacturers.	at the time of the testimony.	
Randall, Mike 10/03/2018	2727:16-2729:05	2727:16-2728:23 - Lack of foundation. The foundation for this witness to testify to such matter has not been established. Mr. Randall is not a bio-medical engineer, he is not a medical doctor, he has offer no testimony regarding regarding training or specialized knowledge in anatomy, physiology, hemodynamic, or fluid dynamics. Additionally, Mr. Randall has not demonstrated that he is qualified to opine on filters from other manufacturers. Not properly disclosed and Plaintiff did not have proper notice that this witness would discuss filters from other manufacturers.	Again, Mr. Randall is explaining information he knows, learned while working on IVC filters and used during the course of his employment. Plaintiff's counsel was present at the time of the testimony and conducted the cross examination. No objection was made at the time of the testimony.	RESERVE
Randall, Mike 10/03/2018	2729:06–2929:19 starting with “could you”			
Randall, Mike 10/03/2018	2729:20–2730:01 starting with “would you”			

Randall, Mike 10/03/2018	2730:13– 2731:12 starting with “based on the”			
Randall, Mike 10/03/2018	2731:15 starting with “can you turn”			
Randall, Mike 10/03/2018	2731:18– 2732:07	2731:21-2732:2 - Relevance	This is relevant the balancing test for design defect.	OVERRULED
Randall, Mike 10/03/2018	2732:08– 2732:11 starting with “are you aware”	FRE 106 - adding "As of today, in October of 2018"		SUSTAIN, add “As of today, in October of 2018” (the full line 2732:8).
Randall, Mike 10/03/2018	2732:12– 2732:15 starting with “are you aware”	FRE 106 - adding "As of today, in October of 2018"		SUSTAIN, add “As of today, October of 2018” (the full line 2732:12).
Randall, Mike 10/03/2018	2732:16– 2732:18 starting with “are you aware”	FRE 106 - adding "As of October 2018"		SUSTAIN, add “My same question: As of October 2018” (the full line 2732:16).
Randall, Mike 10/03/2018	2832:19– 2832:21 starting with “are you aware”			
Randall, Mike 10/03/2018	2733:05– 2733:07			

Randall, Mike 10/03/2018	2733:25- 2735:12	2735:5-2735:12 - Relevance	Relevant to show the nature of the test, that the animals move and are not static. Movement impacts the activit of the inferior vena cava.	OVERRULED
Randall, Mike 10/03/2018	2735:13- 2736:02 starting with “would you”			
Randall, Mike 10/03/2018	2736:13 stopping at “page”			
Randall, Mike 10/03/2018	2736:15- 2736:17 stopping at “page”			
Randall, Mike 10/03/2018	2736:18- 2738:09			
Randall, Mike 10/03/2018	2738:10- 2738:23 starting with “would”			
Randall, Mike 10/03/2018	2739:06			
Randall, Mike 10/03/2018	2739:09- 2739:11			
Randall, Mike 10/03/2018	2739:12- 2740:01 starting with ‘can you”			

Randall, Mike 10/03/2018	2740:02- 2741:11 starting with “could you”			
Randall, Mike 10/03/2018	2741:12- 2741:24 starting with “could you”			
Randall, Mike 10/03/2018	2742:15- 2742:17			
Randall, Mike 10/03/2018	2742:23- 2743:01			
Randall, Mike 10/03/2018	2743:08- 2744:16			
Randall, Mike 10/03/2018	2744:18- 2746:06			
Randall, Mike 10/03/2018	2746:14- 2747:05 starting with “could you”			
Randall, Mike 10/03/2018	2747:10- 2747:18			
Randall, Mike 10/03/2018	2747:19- 2748:01 starting with “would you”			

Randall, Mike 10/03/2018	2748:13– 2753:01	2748:20-2752: - Relevance. The two products discussed were never put on the market by Bard.	This is relevant the balancing test for design defect, and the ability to create an alternative design.	OVERRULED
Randall, Mike 10/03/2018	2753:05– 2753:06			
Randall, Mike 10/03/2018	2753:07– 2753:24 starting with “would you”			
Randall, Mike 10/03/2018	2754:05 starting with “could you”			
Randall, Mike 10/03/2018	2754:11– 2755:11			
Randall, Mike 10/03/2018	2755:12– 2755:23 starting with “can we”			
Randall, Mike 10/03/2018	2756:02– 2756:11			
Randall, Mike 10/03/2018	2756:13– 2757:01 starting with “could you”			
Randall, Mike 10/03/2018	2757:10– 2758:13			

Randall, Mike 10/03/2018	2758:14– 2759:05 starting with ‘Could we’			
Randall, Mike 10/03/2018	2759:07– 2759:16 starting with “can you”			
Randall, Mike 10/03/2018	2759:25– 2760:02			
Randall, Mike 10/03/2018	2760:03– 2760:17 starting with “could you”			
Randall, Mike 10/03/2018	2760:18– 2761:06 starting with “can you”			
Randall, Mike 10/03/2018	2761:14– 2762:10 starting with “If we could”			
Randall, Mike 10/03/2018	2762:17– 2766:02			
Randall, Mike 10/03/2018	2766:07– 2767:02	2766:3-3766:12 - Relevance. Testimony about another Plaintiff is confusing. 2766:17-2766:24 - Foundation. The foundation for this witness to testify to such matter has not been	2766:03-2766:06 WITHDRAWN	MOOT in part (2766:03- 2766:06 is to be excluded), otherwise OVERRULED

		established. Mr. Randall is not a bio-medical engineer, he is not a medical doctor, he has offer no testimony regarding regarding training or specialized knowledge in anatomy, physiology, hemodynamic, or fluid dynamics. 2766:25-2767:2- Relevance. Defendants are trying to suggest that they are a responsible company by abandoning projects after		
Randall, Mike 10/03/2018	2793:23– 2794:05			
Randall, Mike 10/03/2018	2796:05– 2796:12			
DEPON- ENT	PL COUNTERS	DEF OBJECTIONS	PL RESPONSE TO OBJECTIONS	COURT RULING
Randall, Mike 10/03/2018	2767:19- 2768:07			
Randall, Mike 10/03/2018	2768:14- 2769:18 Starting at As you			
Randall, Mike 10/03/2018	2769:24 Stopping at 2010			
Randall, Mike 10/03/2018	2770:12- 2770:15 Starting at But as			

Randall, Mike 10/03/2018	2770:21- 2771:01			
Randall, Mike 10/03/2018	2771:06- 2771:12			
Randall, Mike 10/03/2018	2771:18- 2771:24			
Randall, Mike 10/03/2018	2772:09- 2772:11			
Randall, Mike 10/03/2018	2772:21- 2773:23			
Randall, Mike 10/03/2018	2774:15- 2775:22			
Randall, Mike 10/03/2018	2775:25- 2776:03			
Randall, Mike 10/03/2018	2776:08- 2776:11			
Randall, Mike 10/03/2018	2779:03- 2779:05			
Randall, Mike 10/03/2018	2781:06- 2781:21			
Randall, Mike 10/03/2018	2781:25- 2782:06			

Randall, Mike 10/03/2018	2782:12- 2782:15			
Randall, Mike 10/03/2018	2782:16- 2782:21	Starting with an answer to a question that was not designated.	Plaintiff will add the question at 2782:12-2782:15	MOOT
Randall, Mike 10/03/2018	2783:02- 2783:18			
Randall, Mike 10/03/2018	2784:02- 2784:08			
Randall, Mike 10/03/2018	2784:15- 2784:25 Starting at We just			
Randall, Mike 10/03/2018	2785:12- 2786:25			
Randall, Mike 10/03/2018	2789:08- 2789:19			
Randall, Mike 10/03/2018	2789:23- 2790:17			
Randall, Mike 10/03/2018	2790:23- 2791:10			
Randall, Mike 10/03/2018	2792:07- 2792:10			
Randall, Mike 10/03/2018	2792:15- 2792:19 Starting with But Bard			

DEPONENT	DEF COUNTERS TO COUNTERS	PL OBJECTIONS	DEF RESPONSE TO OBJECTIONS	COURT RULING
		Unless specifically stated otherwise for purposes of optional completeness, Plaintiff is not agreeing to insert any of the Defendants' counter designations into her presentation of the witness' testimony. The lack of specific objection simply means the Plaintiff does not object to the Defendants offer of that testimony as a cross/counter offer.		RESERVE as to duplication
Randall, Mike 10/03/2018	2776:04- 2776:07			
Randall, Mike 10/03/2018	2779:06- 2779:16			
Randall, Mike 10/03/2018	2789:02- 2789:07			
Randall, Mike 10/03/2018	2791:11- 2791:13			
Randall, Mike 10/03/2018	2793:07- 2793:09			
Randall, Mike 10/03/2018	2797:13- 2798:15	FRCPE 26(2)(B) and FRE 702 - The witness is offering expert testimony and he has not been properly designated as retained		OVERRULED

		expert and has not provide an expert report.		

Accordingly, IT IS ORDERED that the parties' request for rulings on objections to certain designations is GRANTED, and the objections are sustained in part and overruled in part as provided above.

Entered this 6th day of June, 2021.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge